QUID NOVI

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QUID NOVI

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EDITORIAL

by Andrea Gorys (Law III)
Co-Editor-in-Chief

Have strange things been happening to you lately? Has a black cat crossed your path? T'is the season where ghosts and goblins come out at night, where jack lanterns blaze and where those sleeping abandoned houses have their fun – Halloween is here. Since we are all busy with our lives, I thought I'd divert our minds with the history of Halloween.

Halloween actually originates from the ancient Gaelic/Pagan festival of Samhain or the end of the harvest season where supplies are stocked for the winter. "The Ancient Gaels believed that on October 31, the boundaries between the worlds of the living and the dead overlapped and the deceased would come back to life and cause havoc such as sickness or damaged crops" (Wikipedia). In order to avert these tragedies, revelers would wear costumes and masks to impersonate and pacify these evil spirits. Once Rome took over Ireland this ritual became imbedded within other cultures and traditions. The Romans had Feralia, the celebration of the dead and Pomona – the Roman Goddess of fruit; while in northern European Pagan traditions, it was a celebrated religious holiday until Popes Gregory the III and IV decided to move the Christian "All Saints Day" holiday to November 1st so that "Halloween" slang for "All Hallow Even" would now celebrate Christian piety and replace any ingrate pagan idols.

Eventually Halloween crossed the pond with the Puritans and has now become a big celebration for all – but most especially kids who dress up and go door to door trick-or-treating and getting massive amounts of candy to splurge over. So enjoy your candy, enjoy your parties and your costumes because when else do we get a chance to make fools of ourselves and believe in witches and vampires? ù

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SAME CASE, DIFFERENT RESULTS

By Joshua Krane, Law IV

In two recent decisions, one by the Ontario Superior Court and another by the Quebec Superior Court, a motion argued on the virtually the same facts resulted in different outcomes. Both the Ontario and Quebec legislatures passed comprehensive, province-wide anti-smoking legislation recently. The legislation prohibited smoking in indoor spaces accessible to the public, with the exception of nursing homes. Aboriginal people also received an exemption for smoking indoors in public places for ceremonial purposes.

This legislation was the subject of considerable debate, as bar owners, bingo hall operators, dance club proprietors, and restaurateurs claimed that said legislation would cause the demise of their businesses. Instead of going out for a bite to eat or play bingo, the proprietors of such establishments claimed that people would stay at home and smoke. Well, the fear of the demise of these businesses never materialized, but some businesses have filed constitutional challenges to the validity of these statutes nonetheless.

The Government of Ontario was successful in its motion to strike down a constitutional challenge in Club Pro Adult Entertainment Inc. v. Ontario (Attorney General). Although the Court of Appeal has granted leave to appeal, the plaintiffs struggled to articulate a valid cause of action under both the division of powers and the Charter. They claimed, for example, that freedom of association under the Charter protects the right to smoke; a claim which the trial judge dismissed summarily. The plaintiffs also claimed that the legislation was discriminatory on the basis of race and disability; a claim also struck. Although the trial judge allowed the plaintiffs to amend their criminal law claim, this decision risks being overturned at the Court of Appeal.

By contrast, the Government of Quebec was unsuccessful on its motion to strike on the very same issues. In Placements Sergakis inc. c. Québec (Procureur général), the motion judge's language is dramatically different. He described these issues as "serious and important" and denied the government's motion to strike.

These two decisions can tell us a few things about the administration of justice in Ontario and Quebec. First, they show that on a motion to strike, some trial judges are more willing to extinguish the plaintiff's cause of action even though the plaintiff did not have its day in court. It puts open a more general question – is there really such a thing as a uniform understanding or application of the law? Second, the cases show that facts in the abstract, or social context, can have a definitive effect on the outcome of a case. The trial judge in Placement Sergakis describes how this new law has changed the mentality of Quebecers with regard to smoking. In a province with a "culture" of smoking in bars and restaurants, this factor, more than the legal basis of the plaintiff's claim, seemed to impact the decision of the motions judge. Smoking is more than a cultural facet in Quebec – it is a fact of life. According to the Canadian Medical Association, Quebec is the jurisdiction has the highest rate of smokers among the female population anywhere in the world (38 percent)! Ironically, Quebec stands to gain the most from comprehensive anti-smoking legislation, and yet, the government will have to go to greater lengths to uphold its legislation in court. ■

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HUMAN RIGHTS ABUSES IN BURMA:
ASEAN MAY BE ABLE TO STOP THE BULLYING

by Nicholas Richards-Bentley (LAW II)

Every human being, of whatever origin, of whatever station, deserves respect. We must each respect others even as we respect ourselves."

These words by U Thant, first Asian-born Secretary-General of the United Nations, and the most famous statesman Burma has ever produced, have been treated by Burma's military junta as the exhortations of a wise but easily ignored parent. His legacy of defusing civil war in the Congo and helping to mediate an end to the Cuban Missile Crisis could have served as a foundation for enlightened Burmese engagement with the international community. Instead, the ruling military clique has, for forty-five years, governed the country of fifty million as a fiefdom, with a farcical veneer of concern for human rights. In what is only the most recent outrage, over the past two months the regime is believed to have killed at least 200, with 6000 detained.

It didn't have to be this way

Burma burst into nationhood in 1948, just one year after the infamous rupture of its neighbour, India, to the west. Like India, Burma's independence was the result of a long fight for independence, spearheaded by the Anti-Fascist People's Freedom League (AFPFL) under the leadership of Aung San and U Nu.

Yet the euphoria of an election victory by the AFPFL in the run-up to independence was dashed shortly afterwards when a gunman burst into a meeting of the country's top leaders and shot dead a clutch of key figures, including Aung San. U Nu took over as prime minister, trying valiantly to keep upright a ship of state buffeted by political factionalism and a slow economic recovery from wartime Japanese occupation. All the while, storm clouds of military rule gathered under the stern gaze of senior general Ne Win, finally breaking in a 1962 coup d'état. Violent repression was instantaneous: over one hundred students protesting on the campus of Rangoon University were killed on July 7, 1962, and the army blew up the Students' Union building the next day.

Beginning in the mid-1970s, the country experimented with autarky - benignly called "economic self-sufficiency - a disastrous policy which led to economic misery. Frustrations with the economy gave birth to the student movement, which eventually coalesced under the leadership of Aung San Suu Kyi. Further economic troubles in the late 1980s led to widespread protests and demonstrations in 1988, to which the military responded with frantic allegations of communist plots and indiscriminate shootings into crowds, killing thousands. The 1990s were equally violent: the regime used force to compel several rebelling ethnic minorities in the borderlands region to the negotiating table. The United States and EU recorded their disgust for the regime by imposing sanctions in 1997 and 2000, respectively.

Hope for change?

The ruling junta, known by the Orwellian moniker of "State Peace and Development Council" (SPDC), has embarked on a self-proclaimed "road map to democracy." A National Convention has been in session since July, drafting principles for a new constitution. Yet key political parties, such as Aung San Suu Kyi's National League for Democracy, remain unrepresented, and the process has been carried out under strict guidelines which discourage meaningful discussion. Hopes for legitimate steps toward democratization are now bleak, notwithstanding the junta's recent decision to appoint a liaison officer for negotiations with Aung San Suu Kyi. The 1991 Nobel Peace Prize laureate remains under house arrest, where she has been for twelve out of the last eighteen years. Contrary to John Ralston Saul's recent calls, identifying moderate elements in the armed forces is an unlikely task. With a whopping 40% of the government budget spent on the military, disgruntled elements are likely few and far between. Moreover, the example of late Baathist Iraq shows that an authoritarian regime can retain long-term loyalty from its armed forces even during periods of economic crisis.

In addition to the breakdown of the democratic process, recent attempts to sanction Burma through international law have been equally unsuccessful. In January 2007, the United States and U.K. sponsored a U.N. Security Council resolution calling on Burma to cooperate with the U.N. Secretary General's good offices mission, open dialogue with the political opposition, halt its military offensive in Karen State, and allow humanitarian organizations wider access to at-risk populations. The resolution received nine votes in favour, three abstentions, and three votes against, including from Russia and China. Vetoes from these latter two permanent members blocked the adoption of the resolution.

The failure to take the regime to task through international law is compounded by Burma's relatively rosy short-term economic prospects. The energy sector remains strong thanks to gas exports to Thailand and India. However, high inflation has put downward pressure on the free-market exchange rate, and inflation has been further aggravated by the junta's recent decision to hike petrol prices, a move widely credited with spark-

ing the recent riots. Burma's trend growth rate has been choked by pervasive government controls and endemic rural poverty.

Exert pressure through ASEAN

The best mechanism to force improvement in Burma's human rights record is the Association of Southeast Asian Nations (ASEAN), the region's leading economic organization. Burma's 1997 accession to the organization was hailed as a geopolitical breakthrough that would lead to profound normative changes on the part of Burma's governing regime. Yet even prior to the recent outburst of violent repression, some ASEAN members had become frustrated with Burma's glacial pace of political reform. Malaysian Foreign Minister Syed Hamid Albar recently declared, "ASEAN has reached a stage where it is not possible to defend its member when that member is not making an attempt to cooperate." Burma's crumbling credibility within ASEAN was further demonstrated when it conceded to pressure from other members to pass up on the 2006 chairmanship of the organization. Political discussions in Southeast Asia were abuzz this past summer at the prospect that ASEAN members would, on the occasion of fortieth anniversary celebrations in Singapore this November, produce a new charter with provisions protecting human rights. However, Singaporean Prime Minister Lee Hsien Loong has abdicated leadership by allowing Burma an effective veto over the document, noting "It cannot compel the [sic] countries to do things which they do not want to agree to in the first place. And among the countries which have to agree to this document will be Myanmar."

Singapore and the other eight members of ASEAN must scrap the organization's long-standing principle of sovereign non-interference. ASEAN's Treaty of Amity and Cooperation in Southeast Asia calls for the peaceful settlement of international differences or disputes. Why should this standard be any different for intranational disputes? The Charter document presented at the summit in Singapore must contain strong language guaranteeing human rights. To avoid allegations of moral bullying, ASEAN could offer to beef up its counternarcotics assistance to Burma, the world's second-largest opium producer according to the UN Office on Drugs and Crime. As a further quid pro quo, ASEAN could offer to increase technical assistance to help Burma meet its 2008 deadlines under the ASEAN Free Trade Agreement's liberalization requirements. Given that it seeks to diversify an economy heavily-dependent on exports of natural gas, the regime may be receptive to such offers. Burma should in return release political prisoners and incorporate meaningful language protecting human rights into its new constitution. Should Burma fail to uphold its end of the bargain, ASEAN must try harder to capture the junta's attention by breaking long-standing taboos and imposing sanctions or expelling Burma from the organization.

A Young Generation Eagerly Awaits Change

Ashin Kovida, a twenty-four year-old leader of the protesting Buddhist monks, recently escaped Burma by carrying a false identification card, dyeing his hair blonde, and wearing a crucifix. His flight to Thailand was the culmination of two weeks of dodging security forces, most of which he spent hiding in the darkened gloom of an abandoned hut, relieving himself in a plastic bucket and relying on sporadic food deliveries from sympathetic friends. His harrowing tale of escape, and his shocking youth, is a clarion call to Canadians to support him and his courageous peers.

Canada's ties to Burma remain puny – less than $9 million in total trade – but Canadians can push for change by demanding that our diplomats in Southeast Asia urge their host-countries to make ASEAN adopt a more proactive approach towards Burma. ASEAN's traditional approach of non-intervention has been exposed as a morally absent, sterile response to Burma's outrageous treatment of its citizens. The new ASEAN Charter must contain human rights teeth: economic and anti-narcotics assistance must be offered to Burma in exchange for measurable improvements in respect of the rights of Burmese citizens. Ashin Kovida notes that "[i]nside Burma now, a lot of students and people are organizing the next step against the [junta]. I think it will be the same time as the Olympics in China." If it takes the world's greatest sporting event to re-focus the world's attention on Burma, we will have abdicated our pressing moral duty to its beleaguered citizens. Were he still alive, U Thant would demand better.

What you can do:

- Contact your local MP and Maxime Bernier, Canada's Minister for Foreign Affairs and International Trade: Bernier.M@parl.gc.ca. Ask what Canada is doing to promote an assertive response by ASEAN
- Become involved with Canadian Friends of Burma: http://www.cfob.org/
- Learn more through the web site of Aung San Suu Kyi's National League for Democracy: http://www.ncgub.net/staticpages/index.php/history ■

U Thant – Former Burmese Secretary-General of the UN, and a model for Burmese international engagement

La démocratie doublée par la judiciarisation de l'AÉD

Par Olivier Cournoyer-Boutin, Law I

Le comité judiciaire de l'AED (judicial board of LSA) a rendu mercredi dernier son jugement sur ce qui est convenu d'appeler l'affaire Alex Shee, renvoyant à la disqualification de ce candidat au cours des élections des présidents de classe de 1e année. Brièvement, Alex Shee avait été disqualifié par l'officier d'élection (Chief returning officer, CRO) la vielle du vote, ce qui avait surpris beaucoup d'électeurs et évidemment choqué et étonné le principal intéressé. Ce dernier avait donc décidé d'utiliser le seul recours qu'il lui restait, soit d'en appeler de la décision du CRO devant le comité judiciaire de l'AÉD. Ce jugement a donc eu lieu hier. Ainsi, à la suite d'une longue audience de 2 h 20 et de 80 pages de preuve déposées par les deux parties, le comité judiciaire a jugé que si Alex Shee avait effectivement enfreint certaines règles du processus électoral, la décision de le disqualifier n'était pas raisonnable, principalement en raison du fait que le CRO aurait mal appliqué la procédure afin de rendre effective cette disqualification. Le CRO n'aurait pas fait les enquêtes appropriées pour se forger une idée sur les fautes commises par Alex Shee, se fiant essentiellement sur les propos des autres candidats, sans écouter les justifications du candidat (audi alteram partem) ni lui expliquer convenablement les raisons de sa décision. Ainsi, il aurait abusé du pouvoir que lui confèrent les règlements (By-Laws) de l'AÉD. Il n'y aura toutefois pas de nouvelles élections, puisque, étrangement, Alex Shee n'a pas demandé au comité judiciaire d'ordonner de nouvelles élections, mais simplement d'invalider la décision du CRO et d'ainsi laver sa réputation.

Dans cet article, je ne tiens pas à revenir sur le jugement du comité judiciaire que je trouve raisonnable considérant la question et les faits qui leur furent présentés. J'aimerais plutôt élargir l'analyse au rôle du CRO, aux raisons culturelles qui ont entraîné le dérapage de l'élection, dont le fait que l'exécutif de l'AÉD n'a pas pris ces responsabilités et, ainsi, initier une réflexion sur une réforme éventuelle des règlements et de la culture de l'association.

Tout d'abord, je dois affirmer que, pour moi, le rôle d'un officier d'élection ne peut être qu'uniquement juridique, il est aussi en bonne partie politique, et doit pouvoir être jugé politiquement. Je m'explique. Le CRO concerné dans cette affaire a affirmé lors de sa plaidoirie qu'il voulait un «smooth process» et c'est parce que ce ne fut pas le cas qu'il devait attribuer une sanction importante au candidat qui avait le plus dérogé aux règles, en l'espèce Alex Shee. Ainsi, le CRO voyait son rôle comme celui d'une police qui distribue les sanctions à ceux qui contreviennent aux règlements, selon le principe que nul ne peut ignorer la loi, ni l'interprétation que le CRO en fait. Il ne lui est jamais venu à l'idée que le CRO a aussi le rôle de s'assurer que le processus électoral aille bien et demeure au-delà de tout soupçon de fraude ou d'iniquité et que son pouvoir discrétionnaire de distribuer des sanctions devait justement servir à discipliner les candidats et à s'assurer qu'aucun n'enfreigne les règles d'une manière qui nuirait à la crédibilité de l'élection. Bref, que son rôle principal en est un préventif et que si on ne peut le juger sur sa discrétion à appliquer et interpréter les règles électorales, on peut, et on doit, lui demander d'être transparent. Il a le devoir d'informer les candidats, mais aussi les électeurs, du déroulement des élections, des règles en vigueur, de sa façon de les interpréter et des sanctions possibles. Avec son pouvoir discrétionnaire d'appliquer des sanctions, il a une responsabilité de transparence qui sert justement à légitimer ces interventions. C'est en ce sens que je dis que son travail est aussi politique.

Je ne veux pas, ici, juger le travail particulier du CRO de cette année, ni me demander s'il était biaisé contre Alex Shee dans son application des règlements de l'élection. Cela n'est pas pertinent à mon propos, car je crois que le problème est beaucoup plus fondamental que cela. Et il réside dans la conception très policière du rôle de CRO qu'il défendait et que la culture de l'AÉD contribue selon moi à entretenir. En effet, le comité judiciaire s'est beaucoup questionné à savoir si Alex Shee avait bel et bien enfreint l'article 3.4 de la procédure d'élection et si cet article était clair. Cela fera même l'objet d'une dissidence dans le jugement, mais encore là cela n'est pas, selon moi, au centre du problème. Certes l'article n'est pas clair et il pourrait être bon de le préciser, mais dans un autre cas, un autre article ne sera pas clair et on ne peut pas toujours évaluer la clarté des articles et la légitimité des élections a posteriori devant un comité judiciaire après que l'élection ait complètement foiré comme ce fut le cas cette année. On veut que nos élections fonctionnent et arrivent à élire les représentants que l'on veut vraiment, pas qu'elles foirent et qu'on trouve par la suite la bonne personne à pendre! Ce qu'on veut, ce n'est pas distribuer des sanctions, mais donner de la légitimité à nos représentants. Et pour cela, la réforme essentielle des règlements électoraux n'est pas au niveau de la précision des règles, mais de la précision du rôle du CRO.

Je dis qu'il serait une erreur de ne juger que le travail spécifique du CRO de cette année, car s'il a selon moi fait un travail lamentable à ce qui a trait à sa responsabilité de veiller au bon déroulement de l'élection, il reste qu'il s'est comporté comme les règlements exigent qu'il se comporte et, ce qui est encore plus inquiétant, comme le comité exécutif de l'AÉD exigeait qu'il se comporte. En effet, un élément plus inquiétant

de ce jugement est que le CRO a demandé à la présidente de l'AÉD de venir témoigner, lors du tribunal du comité judiciaire, comme quoi elle était satisfaite du travail qu'il avait fait. Elle l'a fait en affirmant que selon ce dont elle avait eu conscience, tout était correct! Si je n'avais eu que ce contact avec cette présidente, je me serais dit qu'elle est juste tout à fait déconnectée des étudiants de première année qui sont complètement divisés sur la question de la validité de l'élection, ce qui est la plus importante preuve que le CRO n'a pas réussit à donner confiance envers le processus électoral. Mais malheureusement, je ne peux même pas mettre cela sur le dos de l'ignorance! En effet, le jour de l'élection, j'ai moi-même transféré à la présidente de l'AÉD, Hilary Johnson, un courriel de plainte destiné au CRO concernant le déroulement de l'élection et de l'importance de considérer une reprise du scrutin. Et je sais que d'autres aussi lui ont transféré ce genre de plainte. À ce courriel, elle m'avait répondu que le CRO était autonome, ne relevait pas d'elle et que tout problème devait être tranché devant le comité judiciaire. Toutefois, je me demande comment elle peut d'un côté affirmer cela et de l'autre intervenir dans le travail de ce comité judiciaire et affirmer candidement que le CRO a fait un bon travail et qu'elle n'avait aucune raison d'en douter, et cela, sans même mentionner les différents courriels de plaintes qu'elle a reçues ni d'amener d'autres éléments de preuve.

Voilà selon moi le problème! À l'instar des politiciens occidentaux qui, sous l'influence du mouvement chartiste, n'osent plus prendre aucune décision et renvoient tout devant les juges, l'exécutif du LSA n'assume aucune responsabilité dans la débâcle de l'élection de première année oubliant que tout pouvoir d'arbitraire confiée à une personne ou une institution doit venir avec une responsabilité et une mission que le législateur se doit de définir et en raison de laquelle l'exécutif se doit d'être préoccupé si ces pouvoirs sont utilisés sans être liés à la mission et aux principes qui devraient y être associées.■

A Search for Justice?

by Bryana Jensen (LAW I)

A Judicial Board meeting was held this past week to review an appeal made by a first-year law student regarding his disqualification from the first-year class president race that took place in early October. This student felt that he had been unreasonably disqualified and wished to have this recognized by the Board. He further desired that a review of electoral processes and policies take place, with the objective of making them clearer.

As a candidate for Faculty Councilor, I was asked to testify at the hearing on my understanding of the rules during the campaigning period. I was present for the greater part of the hearing. I was initially hesitant about participating, as it seemed somewhat awkward given my personal and working relationships with the majority of those involved. However I decided that it was important for the process to be present and to speak on my experience.

Early in September, in an unrelated context, Me Lamed addressed our first-year class and asked us to be aware of the distinction between advocacy and arguing or attacking, encouraging us to do our best to remain professional and respectful when facing our classmates. I remember being puzzled by this, wondering what she could be referring to – surely things would never get so heated that such a warning would be required. We are all accomplished, capable individuals – was a reminder about "being on our best behaviour" really necessary?

Apparently it was. I have to say that I was appalled by the tone and attitudes displayed during the hearing. It makes sense for there to be a bit of tension between the two parties – they are involved in a dispute after all. However, a level of impartiality from the Board itself is essential. Instead what we saw was not a search for the truth, but rather a twisted attempt to catch students who misspoke, and an offensive display of attitudes of superiority and power by certain members of the board.

We have to question the purpose of such a hearing. In not asking for a reelection, the disqualified candidate stated that he simply wanted the opportunity to have the process recognized as being flawed, and for improvements to be made in the future. One can presume that this was done out of a desire to highlight an unreasonable and unfair application of the rules while allowing the student body to move on without another election. I understand that a hearing is by its nature adversarial. However, we must recognize the context in which we are operating. We are a small faculty, a community, where my impression is that most people know and see one another on a regular basis. After our time here, we will go on to work in the world, but ideally, we will retain the connections and relationships we have built here. The purpose of student government, in my mind, is to give students a voice and an opportunity to work on their own behalf on issues important to them. It should be a united effort: one that recognizes and respects divergent views, and that supports its members. When problems occur, requiring the intervention of the Judicial Board, I would think that as a faculty we would place some value on resolving issues while maintaining a commitment to solidarity, mutual respect (despite differences in opinion), and general professionalism and maturity. As an overseeing body, the judicial board should exemplify these values that we hold as a community. This may be naïve, but I would think that most people hoping to get involved in student government do so out of a desire to make a positive contribution to the school community. Not only was the Judicial Board process far from positive, it

created entrenched divisions and will make moving forward from the (already challenging) election experience more difficult for the first year class. I think that if a review of the electoral processes does take place, we may need to question the role and purpose of the judicial board in the context of the LSA. In any case, I hope that with this process now behind us, we can finally move on and work towards having a meaningful and inclusive school year. ■

UKRAINE ELECTIONS FREE AND FAIR BUT POLITICAL GYMNASTICS CONTINUE

by Natalie Haras (LAW ?)

Ukraine's political leaders are engaging in political gymnastics to create a coalition government after Ukraine's Pre-Term Parliamentary Elections on 30 September. After observing the elections, I hope that President Viktor Yushchenko and opposition leader Yulia Tymoshenko will be as committed to good leadership as their respective party members were on and after election day.

I was an international observer with the Canada-Ukraine Foundation of the Ukrainian Canadian Congress. While vote sabotage did occur, international organizations that sent observers, including the OSCE, found these elections to be freer and fairer than any others held in Ukraine.

I was struck by the unprecedented commitment of some members of electoral commissions on one hand and the absence of professional integrity of others. One example stands out:

On Tuesday, October 2, I returned with my fellow Canadian election observers to Kyiv from Donetsk in eastern Ukraine. Rather than unwinding with a good local brew after five sleepless days, my colleague, Dr. Danielle Stodilka, and I came upon a Russian media circus in central Kyiv at the headquarters of Territorial Election Commission (TEC) 218.

With our passports and observer accreditation in hand, we entered the downtown Kyiv TEC headquarters at 11:00 pm. We found eight exhausted members of the TEC, who refused to leave their posts as a result of the illegal sabotage of approximately 290,000 Kyiv votes by nine other members of the commission.

The members of TEC 218 who walked out on their session were exploiting article 33.5 of the Law on the Election of People's Deputies of Ukraine. The legislation states that a session of a TEC is legitimate when more than one half of the commission's membership is present.

The nine members of TEC 218 abandoned their posts in order to avoid finding a quorum to approve the territory's election results which overwhelmingly favoured the Yulia Tymoshenko Bloc. TEC 218 accounted for 0.95% of all Ukrainian voters. Due to the close results of this parliamentary election, the Party of the Regions coalition feared that an extra percentage point for Tymoshenko would mean that they would lose their government status.

The remaining coalition members represented Tymoshenko and President Viktor Yushchenko's Our Ukraine. They welcomed our presence and drew up a formal note attesting to the blatant vote compromise in this Kyiv district. We left the commission at 4 am and submitted our documentation to our head of mission.

Our mission ended on 3 October but the remaining members of TEC 218 continued carrying out their duties and camping out at their headquarters until a compromise between Tymoshenko and the Regions was reached on 5 October. I wonder how many Canadian citizens would have been as conscientious in their duties?

President Yushchenko and Yulia Tymoshenko are now trying to work out an "Orange" pro-democratic and West-leaning coalition government. The Party of the Regions, with much support in eastern and southern Ukraine, is trying to retain a foothold in government.

The real heroes of these elections are the Ukrainian citizens who worked hard to ensure that voters' choices were respected. Ukraine has complex political problems, but there is real potential for democratic norms to take root.

Ukraine's leaders should build a coherent, working relationship rather than pursuing blatantly personal ambitions and exacerbating East-West tensions. It's been said many times before but it's still true: corruption needs to be weeded out so that this young democracy can flourish. ■

HOT-BLOODED: ARE SOME PRINCIPLES MORE EQUAL THAN OTHERS AND IF SO, WHY?

by Stephanie Jones (LAW III)

If you weren't at the genocide prevention conference and are getting tired of reading about it, bear with me, or challenge yourself to engage with something you'd rather not. Let me begin by saying that genocide has never been "my" issue. Too big. Too difficult to understand, let alone to address or prevent. The controversial nature of the subject means that almost anything that is said (or not said) will invite criticism, and I appreciate that the conference discussed it anyway, and that various participants have been keeping the discussion going. I will try to do my bit by responding to some of Sam Walker's reflections.

Sam notes that "prevention is a strategy founded in pragmatism" and summarizes various practical suggestions: 1) jamming radio communication in Rwanda; 2) "send[ing] 'guns and money' to rebels fighting the janjaweed" in Darfur; 3) peace negotiations; 4) corporate divestment; 5) a Young Leaders follow-up meeting in Ethiopia. He points out that "all of these" (except perhaps the Young Leaders meeting) "involve a certain compromise of principles:" state sovereignty, pacifism, "swallowing one's pride to negotiate with brutal enemies," and free trade, respectively.

Sam goes on to highlight his "favorite idea": sending in mercenaries to provide security for Darfuri refugees. It would be fast, it could be done by civil society, and it would save lives. He argues that we would not hesitate to hire "even the seediest looking mafioso" if it were our families at risk and our official security (the police) doing nothing. He concludes that "even deeply held values" should "pale in comparison to this moral imperative" and "we cannot stubbornly adhere to abstract principles if our ultimate allegiance is to saving lives." I disagree.

I share Sam's frustration with the ongoing death and inaction, and I have no brilliant alternative solutions. However, Sam himself warns against the easy allure of "proverbial white knights" riding into Darfur, and I would argue that black knights are even more dangerous. Saving lives, itself, after all, a principle, may drive white knights, but dollars, or other principles, drive mercenaries. We need only ask our neighbor to the south if we need examples of how quickly the seedy-looking mafioso you thought was working for you can turn against you. If it were my family, my family would (and has) run. They were just lucky there was somewhere safe to run to.

Saving lives is an important principle, but I am not sure it is more important than not taking them, or at least not empowering mercenaries to take them. Even if it is, there is more than one way to do it. One of the strengths of the conference was the diversity of its participants and their ability to acknowledge, if not necessarily to agree with, each other's points of view. I would much rather save lives by sacrificing state sovereignty, free trade, and certainly my own pride to talk with my enemies than by sacrificing pacifism. Violence breeds violence, especially once you start auctioning it off to the highest bidder.

I think the question is less one of stubborn adherence to or wholesale compromise of abstract principles than of deciding which of our principles are most important to us and making them concrete. Preventing genocide requires not letting go of our principles, but holding on to them and finding others to share them (or enough of them). Sam, you can still support sending in the mercenaries. As for me, I'll be supporting non-violent civilian empowerment, peace negotiations, China following Talisman out of (or at least putting some pressure on) Sudan and, of course, more discussion (and more action). ■

Response to S. Jones

by Sam Walker (LAW II)

I'd like to begin by thanking Stephanie for graciously giving me the chance to respond to her rebuttal to a very small part of my piece last week. Even my friends have told me that the idea of sending mercenaries to Darfur sounds, at first blush, absurd. I obviously am not an expert and won't pretend to have it all figured out, but it is an idea worth your serious consideration. Before we allow the Quid to return to its regularly scheduled non-genocide programming, allow me to elaborate.

Stephanie writes: "Saving lives is an important principle, but I am not sure it is more important than not taking them..." If she means that the only thing that outweighs saving lives is losing more of them, then I cannot disagree. So the question is: would a carefully chosen mercenary firm, with the discreet mission of protecting Darfur refugee camps (not going to war), do more harm than good? This is a debate far more complex than labels like "black knights," but suffice it to say that highly professional security firms have been protecting our diplomats abroad for years – are refugees not equally worthy? Moreover, as businesses, they work on a contractual basis – pay them enough, set strict terms, and they won't want to risk their payout. Mercenaries are not ideal. An in-

ternational coalition with a robust mandate would be far preferable. But 5 years into the genocide, that now seems like a lost cause. Obviously, there is a great deal to be concerned about – accountability, cultural insensitivity, the Blackwater fallout, to name only a few issues – but desperate times...

I am resigned to the fact that this proposal will probably never be taken seriously, but I'm not the first to think of it. The Genocide Intervention Network originally planned to send their funds to the African Union force, only to realize it would be squandered. They seriously explored hiring mercenaries, if only to do aerial reconnaissance, and even met with dozens of security firms.

Don't also forget that it has been done before. In 1995, the government of Sierra Leone hired UK firm Executive Outcomes to contain an insurrection by the horrifyingly brutal Revolutionary United Front. They successfully suppressed the rebels and forced a negotiated peace.

To be fair, Stephanie's real objection seems to come from her strict adherence to non-violence, even in the face of the greatest evil known to man. I admire greatly such a principled outlook, but if that is the case, our philosophical divide is unbridgeable. I would have supported military intervention in Rwanda, and would now in Darfur. I consider myself a non-violent person, but genocide is not your average tragedy.

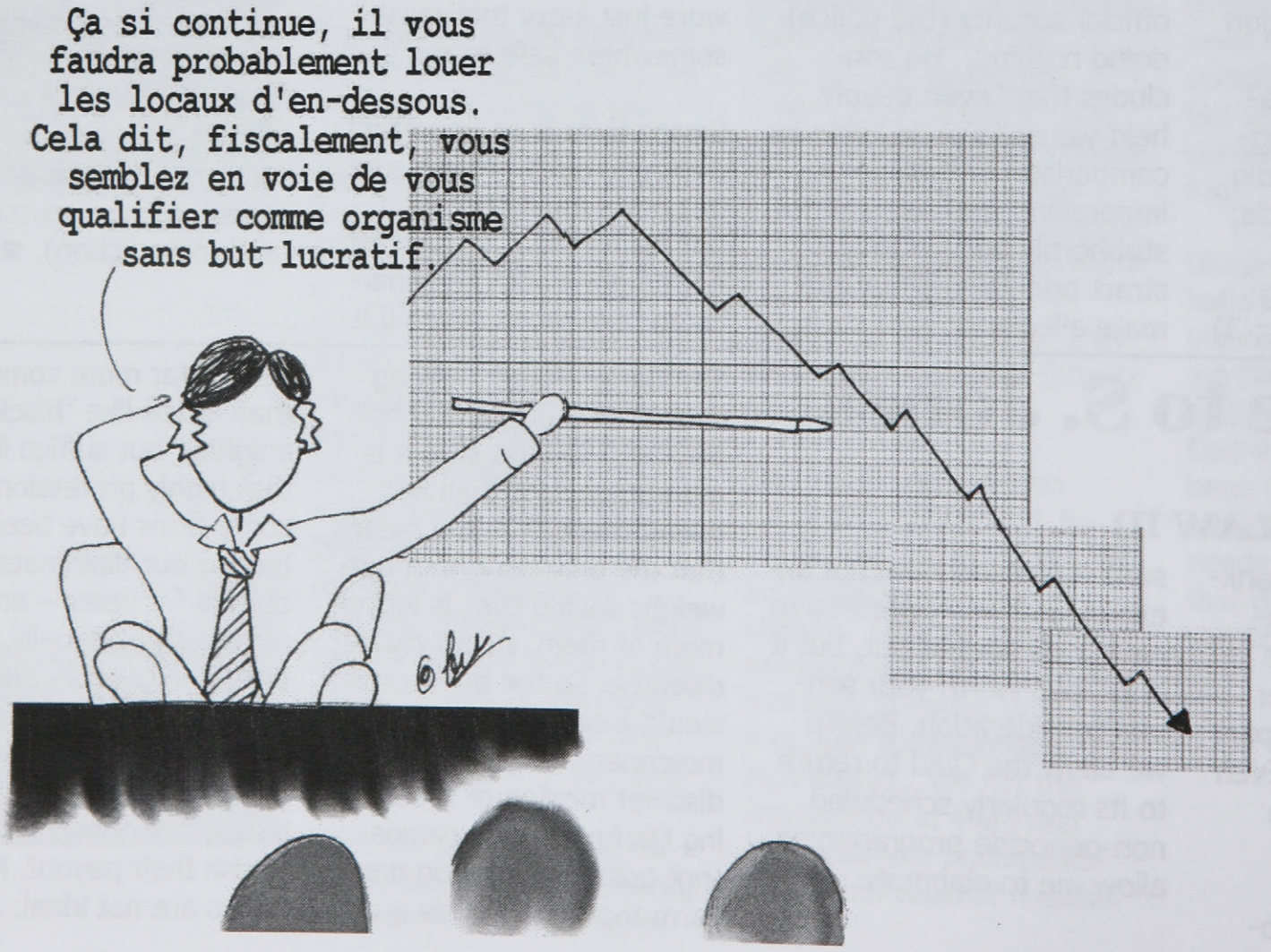
Just ask Roméo Dallaire, who tells us that only once we are prepared to shed our own soldiers' blood will we be able to stop the worst atrocities. Or ask Salih Mahmoud Osman, Darfuri human rights lawyer, whose friends and family actually are at risk of slaughter every day. He made an impassioned plea at the International Young Leaders Forum to support sending mercenaries to protect his people. As he put it, the "peoples of the United Nations" are the true constituents of the UN Charter and they can and should act under Chapter 7 powers when governments are unwilling or unable to do so. Who knows – maybe even just demonstrating the "peoples" willingness to circumvent states' monopoly on force will shame them into action.

Stephanie suggests that faced with imminent slaughter, she would run rather than outsource protection. But with 2 million displaced in Darfur, most already are on the run. And they continue to be pillaged, raped and massacred en masse, every day. We should be asking them what needs to be done. Would the average Darfuri, the most vulnerable population on the planet right now, choose the 5-years running status quo – more "discussion," "non-violent civilian empowerment," "peace negotiations," and corporate divestment, as Stephanie suggests? Or would they opt for an admittedly risky proposal (not mutually exclusive with Stephanie's worthy ideas) that they see as at least giving them a chance to see the next sunrise?

Ask Mr. Osman. His time is running out. We should listen before he has no one left to speak for. ■

CONSEIL(S) D'ADMINISTRATION

by Laurence Bich-Carrière (LAW IV)



TAKING BACK CONTROL OF YOUR CAREER

by Ryan Kirshenblatt (GRAD LAW II)

My Contracts professor used part of one of her lectures to give us a litmus test for our careers. "You gotta want to be up every day at 7am to do it," she said, and that it went for whatever career we're heading into, be it law or something else if we decide. She told us that if we find ourselves in an office one day seriously picturing ourselves doing something else at 7am, then we should quit and go do it. Otherwise we're headed for misery. It seemed like empty words at the time, given the generally prevailing cynicism that most people don't enjoy their jobs but keep them anyway. The saddest part of that is that there seems to be an increasing number of lawyers that fall under this category. I should know, because I was almost one of them.

I wonder how many students in this faculty are wondering what the bloody hell they're going to do for a living once they graduate. Some of you expect to be employed at a national business firm and that your path will start with them. Others see themselves happy to do public interest work and human rights cases around the world. Then there are a bunch of you who are a bit apprehensive about what a large firm career has to offer you, given that every firm representative you've met always has nice things to say, but those who you don't meet or whose stories you hear "from someone you know" seem to despise their jobs and co-workers. You're wondering if there's life outside corporate law. Given the recruiting practices of law schools in this country, it often seems that if there is, you sure don't know about it. After all, when was the last time you saw the local Legal-Aid office sponsoring Coffeehouse with smoked meat sandwiches, free booze and a three-piece jazz ensemble? So this week's column is devoted to you making the most of your career choices, by taking the position that you do in fact have a choice. Furthermore, that choice is much broader than "big firm with money, feel-good law for little money, or unemployment and no money."

WHY THERE'S A CAREER CHOICE PROBLEM

Well, I lay responsibility on a few parties. First and foremost, I blame the law societies of each province because of the articling requirement, which is a manufactured way to ensure cheap labour. The articling requirement, in my opinion, is the single biggest barrier to doing what you want with your legal career. Each law society touts the benefits of articling because it's allegedly a wonderful opportunity for young lawyers to learn from the seasoned practitioners about the right way to get things done. The societies are under a delusion that the articling experience consists of a happy old man with hundreds of battle stories who takes you by the hand like Mr. Miyagi took Daniel and leads you to professional competence and confidence. However, the students face a reality where about half of them endure being the Johnny to their firm's Sensei Kreese. The fact remains that if you want to practice law you have to get called to the bar, and you can't get called to the bar if you don't have an articling position. So you're left with a dilemma: 1. Take the first job you get so you can get assured of an articling job; or 2. pass on this line of work and apply for an articling position later, praying that you get one in the area of law you're interested in. The choice is really one of flexibility vs. security.

My second constituency that I lay responsibility with is law faculty career offices. They do a great job of bringing in firm recruiters from all over to interview their students and offer them lucrative jobs. Financially it's a great idea, but it leaves out the people who may want to do something else with their law degrees, like criminal law or environmental law. (And don't believe the large firms when they say they have an "environmental law practice group" – it means you spend your billable hours finding ways that heavy industry can pollute for cheap). I vividly remember Common and Civil Law Career Days but have a very faint recollection, if any at all, about Criminal Law Career Day, Personal-Injury Law Career Day, or Sole-Practitioner Career Day. Since the only wealth of information you have concerns 40 firms that practice the same thing, it's no wonder why all your questions and choices concern which spoke to shine on the same bicycle wheel. Try riding a different bike.

This leads me to the third group responsible for this career problem. It's us, the law students. We really have to be more pro-active about asserting our futures. If we want more information about other kinds of career days, we have to get on the CDO's back and lobby for it to bring us other speakers and lawyers and other resources to come to the school and open our eyes to the other things we can do with our career. Don't rely solely on large firms for our career options. Rely on ourselves and the tools at our disposal.

THE LACK OF KNOWLEDGE PROBLEM

This is the crux of the Choice 1 or 2 Dilemma above. Firms ask you what kind of law you want to practice and after your first or second year of law school, do you really know? How are you supposed to know what kind of law you're interested in practicing with little chance to actually try? It's like you picking up a hockey stick for the first time and me asking whether you want to play goalie, defense, or forward. How the hell do you know when you haven't even laced up your skates yet?

By the time you've spent a year of summer work and articling in mergers and acquisitions, you may find it boring and unfulfilling, but now you've missed the chance to get articling experience in another area, and run the risk of limiting your career choices.

The solution lies in taking a lot of different courses. You get FOUR years here when other law students in the common law world get only three. Take courses in different areas so you get a look at the kinds of problems and cases and people that come up. It's the best chance you have to get familiar with the kind of work that a career in a particular area has to offer. I took a chunk of business courses during my law degree but sprinkled the periphery with Family Law, Trial Advocacy, a few theory courses, and always took a criminal law course. The reason for doing so was that I was aware of the kinds of issues arising in different practices, and I had the substantive grounding to change practice areas early on in my career. Having that background kept me as close as possible to a junior criminal lawyer without actually being one. The only difference was that I was missing the basics that would've come during articling. Through some initiative, I found criminal work this past summer for a few weeks and tried to close the gap and give defense work a shot. I'm on my way to practicing it for a career now, and quite excited about it.

My motivation for doing all of this was that I wanted to hedge my bets because the truth was that when I started law school, I wanted to be in a fancy suit on Bay St. hanging out with the movers and shakers of the business community. I figured it was my ticket to lucrative business opportunities that I could invest in one day and make some good money outside of being a lawyer. Unfortunately that didn't pan out, as I didn't get an offer from a major firm, but I learned that what I really wanted was to work for myself. So if I was going to have to find clients anywhere I could, I needed to be familiar with a few different areas of the law. At the very least, the number of different courses I had gave me a wider range of firms I could apply to for work in case I was thrown out on the street after articling, and before I could set up shop for myself.

The other interesting benefit of having a broad background is that the knowledge you bring from your old job will help out at your new one. Criminal law has opened itself up to new crimes which usually involve businesspeople and paperwork, and with my business litigation articling experience and business courses, I understood the kinds of transactions in some of the criminal cases I worked on this summer, with the added talent of being able to make sense of stacks of paperwork. It made me valuable, and landed me a job.

The key is to make yourself marketable. The wider your umbrella can open, the more room there is to stand under it when it rains.

DON'T GET PIGEONHOLED

I often hear lawyers say how much they hate being lawyers. I think it's an overgeneralization because it's not that they don't like being lawyers, it's just that they don't like being a lawyer at a particular firm, or practicing in a particular area. The most frustrating thing has to be knowing that you're a professional, and seemingly able to chart your own path, but then one day you wake up and realize that you're stuck doing commercial leasing and re-zoning applications. How did this happen?

It happened while you were asleep at the wheel and thought you'll just deal with it later. In law, dealing later with anything often leads to disaster. You spent your summer at the firm and then articled there, while enjoying the benefits of the firm's rotation that consisted of ten weeks in four different areas. It's barely enough time to get your feet wet. You compromise focus in favour of breadth that doesn't really benefit you as much as it does your office. Given the attrition rate at firms, there needs to be people ready to walk into that position and take over. Clients tend to be impatient people. If you spent your articles in litigation and there's work to be done in M&A it's harder to smooth the transition to make you take that spot. You'll realize at the end of articling some firms will ask you to pick which practice group you'd like to join full-time. They ask you to rank your preferences because if you want M&A but there's a vacancy in Tax, you're going to be practicing tax law if you want to stay employed. The same happens for vacancies in Real Estate or Securities. So that's why there's a rotation – to keep you flexible enough to serve the office's ongoing personnel needs. As one partner I know said, "there's ALWAYS work to be done."

So, because you're saddled with debt and don't want to have to look for work, you take the job they offered you and you stick with it, thinking that in three years, you'll change to another practice.

The problem is you can't. After three years of Securities, you can't just move into Labour and Employment Law. Why not? It's because after three years, you have the exact same amount of Labour Law work experience as a fresh law school graduate has, except you cost a lot more to employ. So what happens – the firm takes the cheaper alternative given that your experiences are equal. That's how you get stuck. If you're thinking about taking your mid-size litigation experience to the big offices, good luck, because often you're stigmatized as not being able to handle the size of the files that your "small-time" office was used to. Another roadblock.

The lesson is that you really have to decide earlier than you think about where you're more likely to be happy working. You may have a hard time trading on your experience if it isn't transferable, but if you have those extra courses in other areas under your belt, you'll be far more credible when you suddenly decide to leave business law and tell the criminal lawyer you're meeting with that not only are you desperately bored with business law, but that you have at least some background to jump into

criminal work. Always have a backup plan.

KNOW YOURSELF AND THE THINGS YOU WANT OUT OF YOUR CAREER

This is a question people don't spend enough time on, and it comes back to haunt them later on. Law, like a lot in life, is a process of ongoing educated guesses. You have to get information, and it's never enough, and then you have to decide what to do with it. The first rule is that you can't enter law just for the money. You'll make a good pile of it at big firms for the first few years, but if you aren't happy doing it, eventually someone who is happy will beat you out for partnership because they were able to make a more committed impression to the firm's brass. My mother told me that "as long as you're the best at what you do, you'll always make top dollar." If you look outside of law, you'll see this tends to be the case. The best air conditioner guy who covers the whole neighbourhood gets good money. So does the roofing guy, and so does the best restaurant in town. Business is business, no matter what, and when you offer the best product, people will always pay through the nose to get it. When you have a heart problem, you get the best cardiologist you can find. The same goes for a lawyer. When you're facing 25 years in prison, you hire the best lawyer you can, because any money you'd otherwise save on a less expensive one you won't get to enjoy while a guy named Tiny makes you his sweet-boy in the big house. I've seen people with 9-5 jobs who are mortgaged to the hilt sign over a $5000 retainer without blinking. When you love what you do for a living and the kind of law you practice, you'll make a great living because you won't be able to do anything but be a success in your chosen field simply because your enthusiasm makes you want to excel.

So start today. Ask yourself whether you want to work with paper all day and fill out forms, sift through a warehouse of documents highlighting "change of control" clauses and reporting back to a partner, and read 25 years of agreements that were never signed and argue that there's an enforceable contract. Does this sound like fun to you? The problem is that when you're a junior lawyer, you'll be looking over the agreements but someone else will be doing the arguing. Nobody went into law to be an articling student, so the question remains how much of yourself you're willing to give and for how long you're willing to give it in order to be the guy arguing it one day. Do you want to be the guy shaking hands with the bank executives? There was a time when I wanted to.

Ask yourself whether you want to be the one making the executive decision and having someone's liberty or financial security riding on your judgment, and more importantly, your reputation. Do you like people? Do you want to be in front of them or would you like a phone separating you? Do you need an academic setting or you want practical, concrete things to work on?

Ask yourself who should get the benefit of your hard work? Every good lawyer works till 11pm more often than not, it's just a question of whether he's getting the billings for his time or he's on salary while the partner is making money from his sweat and toil.

Ask yourself how many people you're willing to be accountable to at any one time. Every lawyer is accountable to three figures: 1. their spouse and kids; 2. their boss; 3. themselves. Most lawyers are lucky if they can satisfy two out of three on a weekly basis.

I learned to ask these questions because I had mounting fears that the place I articled at offered two things that would ruin my career: 1. partners I neither liked nor respected; and 2. work that bored me to tears. I knew that they didn't want to share their money in terms of salary or future equity and so it was nothing but a dead-end. I hated the way I was treated and how disorganized the office was, everything was done at the last minute because the office was overextended. The entire experience had me rethinking everything about this career. So I started re-evaluating what was important to me.

I hated working with paper all day. If corporate lawyers are paper pushers, then litigators are glorified paper pushers. It never ended and most of the file was taken up by letters from the parties and their lawyers usually of the "I confirm from our conversation of..." which I had to stick in order to tell the story. I read contracts that were never signed by the parties though both were performing, spent two weeks on a trial to determine what "reasonable wear and tear" meant, and on an arbitration where we spent about seven hours going over cheques in different amounts and asking the witness to confirm them. Then, every book of authorities would contain a reference to Brock v. Cole which stands for the authority that in breaches of fiduciary duty, the injured party is entitled to compound interest on damages. Yes, lawyers even argue about the type of interest. And you wonder why bills are outrageous.

I wanted clients I could grow with, or at least talk to like people and not like businessmen. I wanted to deal with natural persons and not legal persons. I needed to work with people who really did have a problem that I could help fix, and be excited about the kinds of cases that came my way. I knew I felt best when I was the one making the decisions, handling the matter by myself, crafting the arguments, and writing the lawyer's letters. I wanted actual ownership over my work. That was huge, and I needed more opportunities for its occurrence than only in Small Claims court appearances.

I knew I needed an audience (like last year's theater production and these weekly columns don't give that one away) and so that would mean I'd need to be in court a lot more. Probably would need a jury too. Thinking work would be important – stuff with an academic element. I sure wasn't getting that in commercial landlord/tenant and mortgage proceedings. After taking two more crimi-

nal law classes here at McGill I knew that would be the one of the few areas where I'd find it, and also be interested in the topic. It was time to follow my heart.

Most importantly I realized I don't enjoy having a boss. This was the turning point. I didn't like being on someone else's schedule all the time, being told to finish something ASAP and then be told to drop it in favour of something else – which also had to be done ASAP. I shouldn't have to suffer because someone else can't stay organized or was too cheap to hire extra help. If I was going to work late every night then I should be the one getting paid far better than the peanuts I was working for to make someone else look good. The incentives should be more in line. I realized that if I had any hope of one day being accountable and committed to the triad of my family, my boss and me, then "me" would have to equal "boss". That way I could go home and play with my kids and then go back to work. If my son has a baseball game I can be there and don't ever have to ask permission. The opposite is no way to live. I became committed to doing everything possible to practice what I want, and do it for myself. I abandoned the thoughts of the partner's corner office. I was going to get my own someday soon, with a Dairy Queen nearby. Then I could hire the people that I want and with whom I work well instead of dealing with someone else's lousy personnel decisions.

The values I had chosen were not ones entirely about money. They were about autonomy, growth, ownership, creativity, personal fulfillment, mental stimulation, and I know that with all those things taken care of, the financial end will work itself out.

HOW IT ALL TURNED OUT

In the end, the most important thing I learned during articling was what I didn't want to do, and the type of people I didn't want to work with. When the partners finally brought me into their office to make me an offer after jerking me around for ten months, I had thought it over and knew what the right decision for me was. I had my LLM acceptance and that's what I wanted to pursue. It was the best thing for me at the time – a chance to return and learn some more, pick up a few extra classes, and take the time to plan my next move.

So to their surprise, I turned down their offer. I said goodbye to that office, and said hello to the rest of my career on nobody else's terms but my own.

There's nothing stopping any of you from doing the same when you know what you want. You'll get a great education here and that's the first step. Inside yourself you'll find the rest of the tools you need to build a career that you enjoy. ■

Lawmerick VIII
by Francie Gow, Law IV

Where should one spend Wednesday night?
To the left, the library's in sight
But when Thomson House beckons
The law student reckons
That law's about doing what's right

TURN IT OFF: WHY THE LAW FACULTY SHOULD NOT ADOPT TURNITIN.COM

by Alison Glaser (LAW III)

I don't think I've ever written a totally serious article for the Quid before. Most people are used to my random musings about all kinds of things, from chocolate to yoga. But, indeed, I have a more serious side, and this has to do with my position as Director of Student Advocacy. So, as part of my position, I feel compelled to write this article and apologize for the lack of jokes.

First, I want to deal with some misconceptions. Our job at Advocacy is not to get students "off." I don't like plagiarizers. In fact, I think they should be punished, because they devalue all of our educations and the reputation of our institution. Plus, it is simply not fair that they should get an advantage that others do not. That is why it is wrong. That is why I often nickname my clients (privately) things like "cheaterhead" and "stupid girl". However, what I am concerned with is that students who are charged with academic offences receive their due process and that the punishment they receive fits the crime. I, of course, am also concerned with making sure innocent students are not punished for an academic crime they have not committed. That is what we do in Advocacy—we make sure that students' rights are respected.

Students are punished for their academic offences! I can't tell you how many times I have heard that the University is "soft" on plagiarizers, and that most students "get away with it." I do not believe that is true. Literally hundreds of students every year are investigated for cheating and plagiarism. They suffer serious consequences—they fail the assignment or the class, are on probation, and sometimes it is on their record. What is good about McGill's system is that often students are given a second chance. The first time an offence occurs, the punishment is less severe (usually a fail and probation). The second time the consequences are much harsher (a permanent record, suspension or expulsion, depending on the case). For those that say this is not harsh enough, I ask: what if it were you? What if you were up all night working on an essay, put some notes in that you had forgotten to say were not your own words, and then got accused of plagiarism? The fact that it was a mistake will really make no difference since you have the burden of proving that, which believe me is VERY difficult. Would you want a permanent record for that? I didn't think so.

Anyway, all this to say that I think plagiarism is bad, that students deserve their punishment, and that McGill has an effective way of dealing with this system. So, I believe that if a Prof. or TA suspects plagiarism, he or she has a moral obligation to investigate it. What I do not agree with is the assumption that a paper is plagiarized before it is even handed in.

The Advocacy office, as a general policy, does not like the Turnitin software. We have a big file in here that details questions we have about student's IP and privacy rights. But this is not what I want to talk about in this article.

My main objection to using Turnitin in the Faculty is that I think it would severely harm the mutually respectful atmosphere that we have here. Though clearly I see that there is still a differential power relationship between students and professors, one of the things I appreciate most at this Faculty is that our relationship to our profs is much more collegial than in a regular undergraduate program. We can debate, discuss, work alongside, and challenge our professors here. We can go to their offices and discuss our futures. We can write articles in the Quid back and forth debating a particular issue. I think this is wonderful. It is, I believe, a recognition that we will soon all be colleagues in the legal profession. It is one of the advantages of being here that I always highlight when I give tours to prospective students. And I fear that Turnitin would harm this relationship.

The use of Turnitin is a clear symbol to students. It may be interpreted (and I believe IS widely interpreted by students) as saying "we do not trust you to conduct yourself honestly." I understand, of course, that one could see the use of Turnitin as a way for the Faculty to say "see, we are so confident that no one will plagiarize that we will use this program to prove it." Unfortunately, and respectfully, I think that no one really believes that. So, this program is a big fat symbol to students that is interpreted by them to mean "we think you will cheat." That is not the kind of attitude designed to encourage a collegial atmosphere. I fear that this program would create a more antagonistic environment in the Faculty and will erode the nice relationship we are now privileged to have with our professors. This, I think, is more damaging in the long term than one or two students getting away with plagiarism.

Catching students who cheat is not easy, especially in our Faculty where presumably most people are more intelligent than average. Students can find creative and ingenious ways to plagiarize that is not as easily detected by professors by using Google. I understand that, and it does worry me. I do not want other people gaining an academic advantage over me due to dishonesty. But, consider this: Richard Posner in his book A Little Book on Plagiarism (I have a copy in

the Advocacy office if you want to read it) discusses how plagiarism exists all over the legal profession. For example, he says that as a judge he plagiarizes all the time because he lifts huge portions of text from the facta of the parties that litigate before him. Another example he gives is that in law it is the norm for students who work as research assistants for professors to contribute heavily to their publications, often writing huge portions themselves. However, unlike in other disciplines, students are not made co-authors on these papers, but are only thanked in a footnote. These practices are considered normal and are therefore accepted. Neither Posner nor I are condoning (or necessarily condemning) these practices. I just think that perhaps we should pause and think about these things before we throw stones.

The respectful and collegial atmosphere at this Faculty is something I hold very dear. I do not want to see it compromised. I also, of course, do not want others to benefit through their dishonest practices. I do not know how many cases of plagiarism there are in the Law Faculty. I also do not know how many cases go uncaught. I do know that in the advocacy office the cases we see are generally fairly blatant. I cannot hazard a guess as to how many students are really good plagiarizers, because frankly, that is why we would need a program like Turnitin. I suspect that the numbers of smart plagiarizers are low.

I would encourage other less confrontational ways for the Faculty to be sure that plagiarism is minimized. Having people submit drafts or outlines or meeting with students to discuss topics are some ways this can be achieved. Turnitin is too big-brother, too provoking, to maintain our atmosphere of professionalism that should be encouraged. I urge you, professors, to please consider these points before you commit to using this software. ■

HIGH SCHOOL OUTREACH: A NEW PROGRAM AT MCGILL UNIVERSITY

by Andrew Bitten (LAW IV)

The diversity and international character of McGill's student body is one of the University's strengths and offers students an educational environment that is unique. Promoting understanding and respect for personal differences of all kinds, as well as identifying ways in which students can derive maximum benefit from this unique environment, are essential to the goal of providing students with the best possible educational experience.
- Principal's Task Force on Student Life

No disrespect intended, but a trip to any one of the Tim Horton's around Montreal offers more socio-economic diversity than do most classrooms at McGill, this faculty included. Inadequate representation endures despite our low tuition, perpetuating the challenges of employment and—in terms of this faculty—access to justice. For many people in Montreal, the only interaction with the legal world is negative. As one high school guidance counsellor put it, "for most of my students, all they know about the law—aside from Hollywood—is that the police harass them at the metro station and the landlord tries to evict their mother for missing rent."
Against this backdrop, the Admissions Office has developed a pilot High School Outreach Program. The goal of the program is not the recruitment of "star" high school students to our faculty, but the exposure of all types of students to a world that might otherwise be alien to them.
Another objective of the program is to encourage law students to engage with their own legal education in a new way: through teaching. In the past year, teams of law students have visited three Montreal high schools in underprivileged neighbourhoods, as well as an elementary school, and a community centre, implementing a curriculum addressing the misinformed or negative perceptions many students there have of both the law and higher education. The curriculum aims to open students' minds to the world of legal concepts, legal resources, and legal careers: everything from a police officer to a Régisseur to a Supreme Court justice. Activities range from comparing expression in the lyrics of Britney Spears, Eminem, and Mozart, (only the last elicited one student's exclamation: "damn, what a pimp") to a legal analysis of an infamous police situation at Westmount High. For many of the high school students, we are the first university students they've met. Hopefully, it will help them envision their own such endeavours.
Of course, it is unrealistic to expect two or three visits to remedy systemic problems of socio-economic representation. Both academic research and my personal experience working with adolescents have taught me that without constant reinforcement, teenagers quickly dismiss such gestures as irrelevant at best and insincere at worst. However, continued support, even marginal, can make the difference. For this reason, a faculty Mentorship Program will serve as the backbone of the entire outreach program. While the faculty can provide resources, only ongoing trust and continuous reaffirmation enables the students to benefit from these. The Mentorship Program will enable McGill students to link with high school students in order to provide them with connections to two worlds—legal

and educational—that are often alien to them. It will also enable both partners to share their gifts of opportunity, education, and experience.

You have all received an e-mail about the mentorship program, with the application form enclosed. Applications must be submitted by Friday, November 3, at 3pm. If you have any questions (or "accidentally" trashed the message), please e-mail me at Andrew.biteen@mail.mcgill.ca. Furthermore, high school outreach does not belong to any one person or one office. There is unlimited potential to expand our faculty's outreach initiatives both in depth and breadth, in both French and English. One French language high school was initially involved, but has since dropped out. Undeniably, despite ours being a bilingual faculty, McGill is even more exotic to underprivileged French communities, underscoring the need for outreach there.

On my first day of law school, a professor stressed to the class that the tuition we pay is a miniscule part of the cost of a legal education. The rest comes from government and private sources, each of whom has decided it is in their best interests to fund these pursuits. In return, this professor stressed, we as law students have the responsibility of using our education to repay their gifts. How better to make use of the wealth of resources offered to us than by sharing with those who otherwise risk never benefiting from them. ■

THE LIGHTER SIDE OF DARKNESS

by Francie Gow (Law IV),
with contributions from Julien Morissette (Law IV)

On October 23, at the initiative of Disability and the Law, we were two of 19 students from our faculty who dined together at O Noir. This is a restaurant on Sainte-Catherine where visually impaired waiters expertly serve meals in a completely dark room, and temporarily blinded patrons inexpertly attempt to eat said meals, carry on conversations and not make too much of a mess. We were warned to wear clothes that could withstand a stain or two...

Although we needed no persuading to sign up, we were a bit nervous throughout the day. We would say to fellow participants, "I can't wait to see what it's like—oh, wait, scratch that. Anyway, see you there. Or not. Oh, never mind!" Francie figured she would find a way to feed herself, but kept wondering how things like ordering and paying would work. Naturally, O Noir had thought of all this. We arrived for the 9:00 p.m. and gathered in a foyer full of menus, cash registers and lockers. There was at least one other group, which filed into the dining room as we locked up our coats, bags and light-emitting gadgets (cell phones, watches) and sighted staff took our orders. Julien took off his glasses, which were bound to become useless.

The appetizers, mains and desserts were standard restaurant fare, but the menu also listed an entrée surprise, a plat surprise, and a dessert surprise. We're not picky eaters, so we each decided to embrace the challenge of figuring out what we were eating for two of three courses. Francie decided not to be surprised by the Viennese chocolate cake and ice cream, while Julien liked the certainty of filet mignon.

Still in the foyer, the manager introduced us to our waiters, Mathieu and Amédé, both wearing dark glasses. We were instructed to form a sort of conga line, ten of us behind one waiter and nine behind the other, and they led us past the first of two thick black curtains. They assured us that there would be no stairs or obstacles on the way to the table. This was almost true, but Francie still managed to get her nose whacked by an unseen door. Once we were lined up alongside our long table we carefully pulled out our chairs and sat down. After exploring the table a little and finding a large napkin, a few utensils in the usual places and a bread plate, we began trying to figure out who our nearest dining companions were. Francie knew that James was sitting to her right and Julien to her left, and Julien had Lexi to his left, but we didn't get very far with "So who is sitting across from me?" We were all talking nervously and loudly, and the resulting background noise in the room made it difficult to localize voices, even those that were close by. A few people at other tables periodically screamed, something that one does not normally expect in a restaurant.

The waiters began by distributing bread. Amédé told us that he would be passing the drink over our right shoulders and asked us to put it close to the middle of the wide table, either to our left or to our right. The appetizers began to emerge. If the waiter was carrying shrimp, he would walk down the length of the table, touching our shoulders one at a time, asking "Shrimp? Crevettes? Shrimp?" until somebody claimed it. The roasted pepper salads came out, and suddenly our senses of smell became our primary entertainment. "Surprise? Surprise? Surprise?" "Ici!". We both tucked the oversized napkins into our collars to wear as bibs. Feeling our way to our plates, our fingers landed in some sauce. We licked it off (why not?). Tomato. Okay, there is probably some pasta here somewhere. The plate was actually quite large, with a very wide border, which was reassuring. We spent a long time debating whether we were eating lasagne or cannelloni before eventually settling on oversized ravioli filled with ricotta.

Between courses, we attempted to talk. We noted that despite being sur-

rounded by friends and fellow students we might like to get to know better, it was hard to break out of our little bubble. We still weren't entirely sure who was across from us, and we had lost our usual cues for politely sliding into the conversations of others. At one point Francie leaned over to say something to James and a woman answered; Sabine had switched with James so that he could talk to Sobia. Later, Julien was surprised to get a tap on the arm from Lexi, who had 'disappeared' although she was sitting only 30 centimetres away.

The mains arrived. Francie stabbed at the plate. That first expedition yielded a piece of potato, and the second a green bean. So far, so good. Next came the section of the plate where one would expect protein. Francie sliced through something of salmony consistency, brought it to her mouth, and chewed a long, smooth rectangle covered in sauce. It tasted meaty, with a smooth, firm and fishy texture, but the kind of meat was unclear... Going back to the same spot, suddenly the texture changed. Francie went in with her fingers to find a suitable corner to cut off, and decided she was definitely dealing with a piece of meat. Chicken? Pork? We heard someone say veal, and that seemed right, although she never felt fully certain. She realized only later that the first misleading bite was actually a large chunk of Portobello in the mushroom sauce. We did our best to continue cutting with our knives and forks. Julien didn't have too much trouble with his filet mignon, but eventually used his fingers when a fork proved useless to find beans in a thick pepper sauce. When we each managed to get a fork into our mouths, only rarely would there be a piece of food on it that was bite-sized. If the fork wasn't empty, the food could be anywhere from nibble-sized to three times too big, even for our mouths!

Julien suggested that we close our eyes to rest them during the meal, but Francie couldn't do it for more than a few seconds, instinctively hoping that opening her eyes might make things easier. Julien didn't do any better; it just didn't feel natural and maybe subconsciously impolite to conversation partners. After the meal, Sobia confessed that she kept her eyes open out of a sense of paranoia that she might miss something (as in, they might suddenly surprise us by turning on the lights). Francie could relate to the paranoia, frequently wondering whether there might be infra-red cameras around gathering data for some illicit psychological study about how social groups behave when the lights are out. Maybe some law student reflex.

Dessert was the final frontier. Julien's surprise cake was of the ultra-rich chocolate mousse variety. Eating something which is malleable without being liquid was hard: for each bite on top of the spoon, two other rogue bites stuck to its bottom. Despite the lack of visual evidence, Julien is convinced he stained the table cloth (unless it was brown) and also that he looked like the little girl with the cake batter in the Banque Laurentienne ads. Francie had an easier time, as her dessert was closer to sponge cake, but the ice cream added a melting layer of difficulty.

Although the experience does simulate to some extent the challenges faced by people with visual impairments, the format left us with one advantage that a blind person does not often have: nobody else in the restaurant could see how we were coping (or not). This left us with a considerable amount of freedom. We could use our hands to recover from all kinds of mistakes (although your immediate neighbour can generally hear you licking your fingers). We also discovered that footsies and related pastimes could be taken to a whole new level. Emerging from the darkroom (again in the conga line), we saw non-McGill diners with clothing all askew. One couple had removed everything (waist-up) and switched outfits during the meal and were switching back not so discreetly by the lockers as we were paying our bills.

Francie had a little bonus experience at the end of the evening when her low blood sugar kicked in and she started to feel faint. It doesn't happen often, but when it does this generally means loss of vision for a few seconds. The symptoms were not unusual, but she found it more than a little strange to have to explain to the people around her that she was blacking out. Luckily, they took this seriously and called Mathieu, who deftly led her out of the room to the foyer.

It was 11:30 p.m., and we were stuffed from the generous portions, which of course we had not been able to judge easily. Even when we knew we had eaten enough, we were still engaged by the exciting new challenge of feeding ourselves, so kept on eating just for practice. We rolled out exhausted from the effort, but stimulated by our discoveries. The food was pretty good, but the setting was truly extraordinary. Next time our parents come to town, we know where to bring them. And we'll make it a point to lick our fingers. Loudly!■

CHICO TAKES IT IN THE REAR FROM LONGPOLES

by Ryan Kirshenblatt (Grad Law II)

McCONNELL ARENA (AP) – Riding high after a 3-0 start to the season, Chico Resch entered the game confident that their perfect season would continue. Unfortunately, three teams showed up to play Tuesday night – the Longpoles – a team that had allowed only one goal all season, and two opposite versions of Chico Resch. The only good news was that none of the team had to email this columnist about team scoring since Chico suffered a 6-0 drubbing.

Then again, that would be inaccurate. Jani Holmborg did record an assist by passing Ryan Kirshenblatt a Gatorade in the warm-up skate. "It was orange," Holmborg specified.

The outlook was promising as the team had almost a full roster of skaters, and welcomed the first on-ice appearance of player-coach Ryan Kirshenblatt, whose equipment finally was in Montreal. Finally reunited with "Cherry" Holmborg and Bruce "Sprinkles" Carlini, Chico's "Sundae Line" had high expectations. Enthusiasm in the locker room was high also, especially since more than half the team showed up 45 minutes early for the game. Then again, it's difficult to be late for an 11:30pm faceoff.

The first half had its share of end-to-end rushes, both teams exchanging scoring opportunities, with the Longpoles opportunities being foiled by Ryan "Goon" Ban, who minded the nets with another strong performance. The teams were scoreless at the intermission.

But as the puck dropped for the second half, a Bizzarro-World version of Chico took over. Inadvertently straying from their gameplan, they quickly found themselves down 2-0. "We'd been down by two at other points this season and still found ways to win," commented Peter Riddell, but Chico seemed unable to conjure up that same resiliency for the third time in four games. Kyle Donnelly and Matthew Hendy were creating chances with their combination of speed and skill, but finishing seemed to be a problem that hampered the team all night.

Kirshenblatt had joked before the game that as player-coach, he was willing to bench himself for the benefit of the team should it become necessary, but by the time the Longpoles were ahead 5-0 midway through the second half, it wouldn't have achieved much.
"We wouldn't have let him do that," said rookie Lee Rovinescu, reassuringly.

"Well...maybe if it was only 3-0," said Alexandre Mireault, who spoke on condition of anonymity.

"We just had too many holes in our game tonight, and I guess the Longpoles capitalized on them," said Hendy. Nick Knoppers felt that "they really penetrated our zone tonight," and that "our goalie needed more protection."

As is often the case when teams fall behind late in the game, physical attempts to regain the emotional edge were in order. Hendy and Mireault were involved in some shoving matches with Longpole players, and the occasional foray into on-ice thuggery.

"If you can't beat 'em on the ice, beat 'em in the alleyway," said Rob Amdursky, playing another game on defense. "At least I didn't shoot the puck in my own net like McCabe," he added.

It was a somber return to the locker room after the game with most of the players discussing what went wrong. "Mostly it came down to us not playing our style of game, not asserting ourselves early enough" said Riddell. The low feeling was evidenced by three beers going unfinished. "Story of our night – unfinished," he added.

"It's not the kind of game you can just take on the chest and forget about," said Mireault.
Their next game against the first-place Cleveland Steamers definitely isn't either. ■

All I Need to Know About Grading I Learned...

by Stephanie Jones
(Law III)

When I was just a little first-year,
I asked upper years, "What will law be?
What about grading? What about a job?"
Here's what they said to me:

"Que ser' A, ser' A,
Whatever they'll B, they'll B,
The future is theirs to C,
Que sera, sera – what will be, will be."

When I got back December exams,
I asked my profs, "What lies ahead?
Will it be arbitr'y, year after year?"
Here's what my profs all said:

"Qui saura, saura,
Whatever we'll B, we'll B,
The future's not ours to see,
Que sera, sera – what will be, will be."

Now I'm myself an upper year,
First-years ask me, "What will law be?
What about grading? What about a job?"
I tell them tenderly:

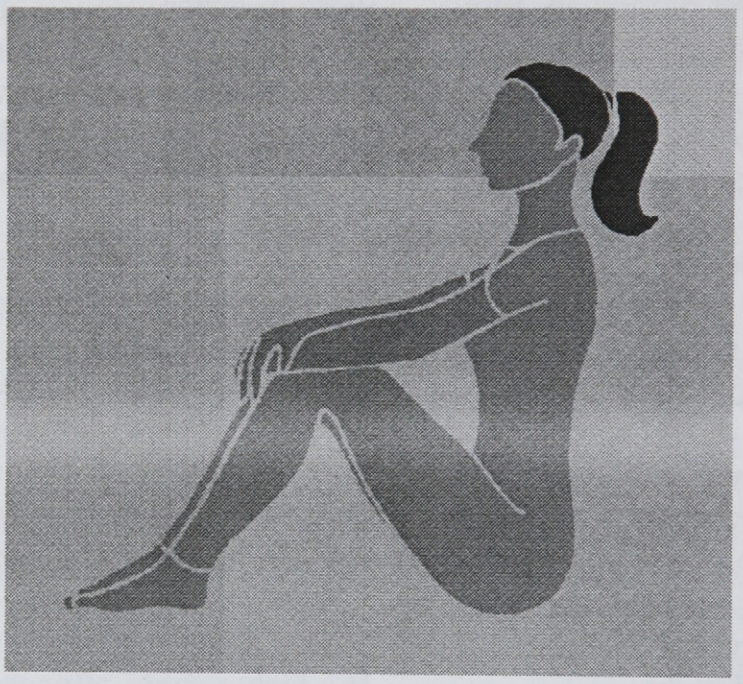
"Que sera, sera,
Whatever will be, will be,
The future's still yours to see,
Que sera, sera – what will be, will be."

Take a deep breath!

McGill Law's Student Well-Being Committee Presents

Yoga at McGill Law

A Relaxation Workshop with Montreal Yoga Instructor David Flewelling



Wednesday, 7 November 12:45 - 1:45 pm

Room 16, Old Chancellor Day Hall

Please wear comfortable clothing that allows for movement.
Yoga mats will be provided. Beginners welcome.

Space is limited. RSVP to wellbeing.mcgill@gmail.com by 2 November.

Event is open to the McGill Law Community.
Please ask Natalie Haras or Aryana Rousseau
if you have any further questions

Developing Your Career Objectives?

by Catherine Bleau (Directrice intérimaire du Centre de développement professionnel) & Ali Martin-Mayer (Doyenne Adjointe intérimaire - affaires extérieures)

You have seen many of your peers dressed up and heard about the On Campus Interviews. You might also have read a few Quid articles on the subject and even participated in some Law Buzz discussions on how to get through recruitment processes… Indeed, your Career Development Office welcomes Toronto and New York employers early every academic year in the context of recruitment processes, called On Campus Interviews (OCI). But that's only the tip of the iceberg of what we do for you.

During the first two months of classes, you have had an information session on Court Clerkships, the first Graduate Studies and Academic Career Day, and presentations from two new potential employers: *McKinsey & Company and Société Générale.* There was a forum with students who summered in the U.S. and Toronto, and who worked for the government. There were also two Résumé Clinic periods and about 70 individual appointments taken to discuss career options.

The 8th edition of the Legal Employment Handbook has been published and is ready to be picked-up, free of charge to all law students (graduate and undergraduate). Also, the new Alumni Directory is available at the CDO office for contact searches of McGill Law Graduates working in many areas of practice.

CareerLink (www.careerlink.mcgill.ca) is updated on a daily basis, giving you access to our 2007 2008 calendar, job offers, recruitment announcements, funding opportunities, job search tools and all of our publications. Books have been purchased to keep our library up to date. The list of books that you can borrow is on CareerLink / Holdings. We also hold directories of employers and brochures of those participating in recruitment processes.

There is a lot more to come. Here is the calendar of upcoming information sessions and workshops. All the details are on CareerLink. Dates, times and locations of events will be confirmed on CareerLink. It is ALL on **CareerLink**!

Espérant que vous profiterez pleinement de toutes les opportunités de développer votre carrière, nous vous souhaitons à tous une très belle année.

2007-2008 CDO Information Sessions & Workshops
Dates are subject to change. Please check CareerLink to confirm these dates, the time and location of the events or to note any changes. **Items in bold are new programs**.

Note that an information session on the **LSUC Licensing Process** and another session in conjunction with **l'École du Barreau du Québec** on their program have not yet been assigned a time but will happen during the Winter Semester.

DATE	DESCRIPTION
OCTOBER 29	First Year Students Information Session
OCTOBER 31	**Session d'info sur la pratique du notariat, lunch et table ronde : Register at the CDO!**
NOVEMBER 7	**Information session for students in their last year of studies and still looking for an articling**
NOVEMBER 14	Information panel on human rights in collaboration with students (tbc)
NOVEMBER 21	Mock Interviews – **Register at the CDO!** & **Workshop on securing funding for summer internships**
JANUARY 9	Workshop on résumés, cover letters and interview skills and information session on Montreal Recruitment
JANUARY 9, 10, 11	Résumé Clinic (with CAPS) - Toronto 1st year and the Ottawa Summer Recruitment
JANUARY 16	**Workshop on Practising Criminal Law**
JANUARY 17	Area of Practice Dinner - topic tbd
JANUARY 21-22	Montreal Recruitment Résumé Clinic with CAPS advisors
JANUARY 23	Breakfast with the Department of Justice (tbc) CIVIL LAW CAREER DAY
JANUARY 30	Breakfast with the *Legal Profession Assistance Conference* of the CBA COMMON LAW CAREER DAY

Date	Description
February 13	Area of Practice Dinner - topic tbd
February 20	Public Interest Career Day
March 5	Panel on Diversity
March 12	Information Session on Toronto/Calgary Articling and Matching Program
March 19	Information session on the U.S./Toronto Recruitment Processes

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Pour tout connaître sur notre programme de stages, visitez mccarthy.ca/avotremesure.

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